

*Town of  
Harpswell  
Maine  
2021*

# Definitions Addendum

## **Definitions Addendum**

**to the**

**Basic Land Use Ordinance  
Shoreland Zoning Ordinance  
Subdivision Ordinance  
Site Plan Review Ordinance**

As Approved March 11, 2000

As Amended March 10, 2001

As Amended March 9, 2002

As Amended March 8, 2003

As Amended March 10, 2007

As Amended March 14, 2009

As Amended March 20, 2010

As Amended March 12, 2011

As Amended June 12, 2012

As Amended March 9, 2013

As Amended March 15, 2014

As Amended March 14, 2015

As Amended March 12, 2016

As Amended March 11, 2017

As Amended June 8, 2021

## DEFINITIONS ADDENDUM

***Citizen's Note:** The Definitions Addendum provides a common set of definitions for the Basic Land Use Ordinance, the Shoreland Zoning Ordinance, the Site Plan Review Ordinance and the Subdivision Ordinance.*

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural and vice versa. The word "lot" shall include "parcel" and "plot." The words "shall" or "must" are used to indicate the mandatory and the word "may" is used to indicate the permissive. The words "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

**Abutters** – the owners of property listed on the Town's most recent assessing records who may be entitled to receive notice of applications before the Planning Board or the Board of Appeals.

**Abutting Property** – any lot which is physically contiguous with the parcel of land, even if only at a point and any lot which is located directly across a public or private way from the parcel of land such that the extension of the side lot lines of the parcel would touch or enclose the abutting property.

**Accessory Residential Unit** – a second dwelling unit contained within a single family detached dwelling or an accessory building on the same lot as a single family detached dwelling for use as a complete, independent living quarters, with provision for living, sleeping, bathing, and cooking.

1. The accessory residential unit shall not be greater than seven hundred fifty (750) square feet or fifty percent (50%) of the total square footage of the primary dwelling, whichever is more restrictive.
2. The accessory apartment shall be secondary, incidental and subordinate to the single family residential or commercial use.

**Accessory Structure or use** – a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Active Building Permit** – a building permit that has not expired or been revoked

**Aggrieved Party** – an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this ordinance; a person whose land abuts land for which a permit or variance is under consideration or has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Agriculture** – the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forage and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

**Applicant** – the assessed owner or owners of land for which a permit, variance or appeal is sought or person with documented title, right, or interest in the land for which a permit, variance or appeal is sought.

**Aquaculture** – the growing or propagation of harvestable fresh water, estuarine, or marine plant or animal species.

**Basal Area** – the area of a cross section of a tree stem at four and one half (4½) feet above ground level and inclusive of bark.

**Basement** – any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty percent (50%) of its volume below the existing ground level.

**Bed and Breakfast Home Occupations** – bed and breakfast means any establishment where the general public can stay overnight for a fee in the home occupied by the owner and are provided with a breakfast meal but shall not serve other meals or have dining facilities open to the public. For the purpose of this ordinance, Bed and Breakfast establishments shall be considered as home occupations if they provide no more than four (4) bedrooms for overnight guests. Such usage as a Bed and Breakfast is subject to adequate sewage disposal as certified by the plumbing inspector.

**Boat Launching Facility** – a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Boat Repair and Construction Facility** – a facility whose primary or sole use is the construction or repair of commercial and/or pleasure vessels and which may also supply three (3) or less moorings as an accessory use.

**Brunswick Labor Market Area** – the median family income most recently published by the Maine State Housing Authority for the Brunswick region.

**Buffer, Buffer Area, Buffer Strip** – land area used to visibly separate and screen one (1) use from another or to shield or block noise, light, or other nuisances, and thus, minimize the effects to adjacent properties or sensitive natural resources. A buffer may include one (1) or a combination of the following: plantings of sufficient mass to effectively block the view or that shall block the view after thirty-six (36) months, walls, fences, or natural growth.

**Bureau of Forestry** – the State of Maine Department of Agriculture, Conservation, and Forestry's Bureau of Forestry.

**Campground** – any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Campsite** – any plot of ground within a campground intended for use by a tent, trailer, recreation vehicle or similar shelter under the control of an individual camper.

**Canopy** – the more or less continuous cover formed by tree crowns in a wooded area.

**Change from one category of non-residential use to another category of non-residential use** – a change in the type of occupancy of a non-residential structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

**Chemical Fertilizer** – a chemical fertilizer is defined as any inorganic material of wholly or partially synthetic origin that is added to the soil to sustain plant growth.

**Code Enforcement Officer** – the person appointed as Code Enforcement Officer or Alternate Code Enforcement Officer by the Board of Selectmen.

**Commercial Use** – the use of lands, buildings, or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units, and may also include the processing of marine life and the sale thereof in any form.

**Community Dock** – a single wharf, pier, dock and/or float located: on a lot in a subdivision approved by the Planning Board and having a common right of use by the association of homeowners having common rights of interest in the lot and which is used by the property owners for loading and unloading of passengers and/or cargo and the tying of dinghies; or on town owned land having the common right of use by the general public.

**Community Shoreland Access** – a point of access to the coastal wetland including associated structures such as raised boardwalks, stairs, access roads, paths and parking lots located: on a lot in a subdivision approved by the Planning Board and having a common right of use by the association of homeowners having common rights of interest in the lot containing the point of access; or on town owned land having the common right of use by the general public.

**Composted Manure** – a mixture of decaying organic matter, as from animal bedding or leaves and excrement, typically barnyard or stable dung, used as a soil amendment to improve soil structure and provide nutrients. Composted manure must be, at a minimum, aged for a period of

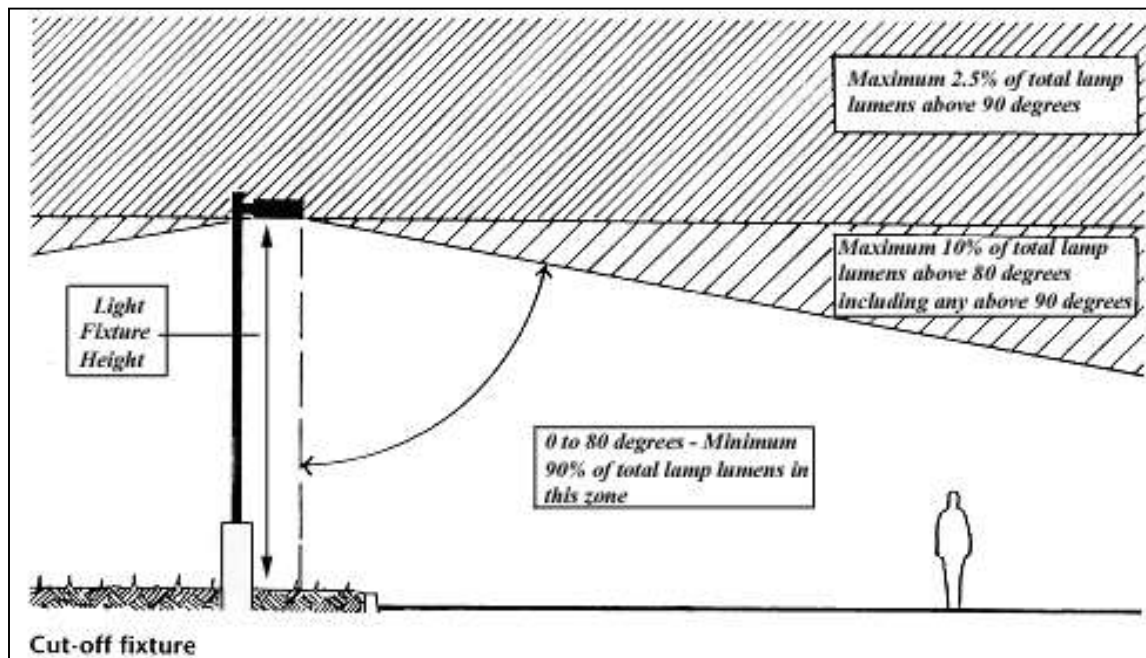
not less than ninety (90) days to allow high levels of nitrogen to leach from the material before application.

**Comprehensive Plan** – the “2005 Update of the Harpswell Comprehensive Plan” adopted March 2005, and any amendments to the plan that have been subsequently adopted by the voters of the Town. Map No. 5 of the 1987 Comprehensive Plan is also included.

**Contiguous Property; Contiguous Lots** – lots that adjoin at any line or point

**Curb Cut** – any new vehicular entrance (driveway) on to an established road

**Cut-Off Fixture** – a lighting fixture or luminaire that controls glare by directing light well below the horizontal. A cut-off fixture must limit the direction of light so that a maximum of two and one half percent (2.5%) of the total lamp lumens shine above ninety (90) degrees or a line parallel to the surface of the ground and a maximum of ten percent (10%) of the lamp lumens shine above eighty (80) degrees.



**Development** – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Dimensional Requirements** – numerical standards relating to spatial relationships including but not limited to setback, lot area, road frontage, shore frontage and height.

**Disability** – any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or

illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**Drinking Water Standards** – the standards for primary and secondary drinking water as set forth in Title 22, M.R.S. Chapter 601, Subchapter 11 and as further defined in the State of Maine Rules Relating to Drinking Water, Chapter 7.

**Driveway** – a private vehicular access way connecting a house, garage or other structure on a single lot to a road.

**Dwelling** – a residential structure containing one (1) or more dwelling units, including single-unit, two (2) unit, and multi-unit residential uses, and manufactured housing but not recreational vehicles.

**Dwelling Unit** – a room or group of rooms designed and equipped for use as a separate living space by a household containing cooking, sleeping and toilet facilities with free and open circulation between these areas by members of the household. A dwelling unit is intended for occupancy by one (1) household living independently in which the members of the household share the use of common areas and have regular interaction in the course of their day-to-day activities. The term shall include mobile homes, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented but not recreational vehicles.

**Emergency Operations** – operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**Equity Recapture** – a resale formula included in a Workforce Housing Covenant that controls the sale price of a Workforce Housing Lot or Workforce Housing Unit. The purpose of a resale formula is to maintain long-term affordability, discourage speculation, assure the continued availability of workforce housing, and ensure moderate long term equity gain to the owner of any Workforce Housing Lot and Unit approved under the Workforce Housing provisions of the Basic Land Use Ordinance, as may be amended from time to time.

**Essential Services** – the construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cable or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a Structure** – an increase in the footprint, floor area, height, impermeable area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches and greenhouses.

**Expansion of Use** – the addition of weeks or months to a use's operating season; additional hours or operation; or the use of more of the footprint of the structure or ground area devoted to a particular use.

**Fisheries, Significant Fisheries** – areas identified by a government agency such as the Maine Department of Inland Fisheries and Wildlife (IFW) or Maine Department of Marine Resources (DMR) as having significant value as fisheries and any areas so identified in the Town's comprehensive plan.

**Flexible Lot Size Subdivision** – a subdivision approved in accordance with Section 9.4.3 of the Subdivision Ordinance in which the lots may be less than eighty thousand (80,000) square feet and at least fifty percent (50%) of the parcel is set aside as protected or common open space.

**Floodway** – the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the one hundred (100) - year flood without cumulatively increasing the water surface elevation by more than one (1) foot in height.

**Floor Area** – the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Food Products** – a raw, cooked or processed edible substance, ice, non-alcoholic beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

**Footprint** – the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**Foundation** – the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts, frost walls or other base consisting of concrete, block, brick or similar material.

**Frontage -**

**Road Frontage** – the linear distance between the sidelines of a lot, measured along the lot line that borders upon whatever road serves as legal access to the lot. For the purposes of these ordinances, the following ways may be used to measure road frontage provided that they are no less than thirty-three (33) feet in width throughout their length:



1. A deeded private right of way.
2. An existing town way, public easement or State or State Aid Highway, provided access is not specifically prohibited.
3. An existing deeded right of way, whether dedicated to public use or not, on a road shown on an approved subdivision plan.
4. An existing private road for which no deed can be located but where the applicant can establish at least twenty (20) years of uncontested usage, and can establish the physical characteristics of the road, including but not limited to, its width.
5. A public or private right of way that provides passage to pedestrians and vehicles and which is the legal access to a lot.

**Shore Frontage** – the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

**Functionally Water-Dependent Uses** – those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses may include, but are not limited to commercial and recreational fishing and boating facilities, fin fish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation, and uses which primarily provide general public access to marine or tidal waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

***Citizen's Note:*** Boathouses and boat building may not qualify as functionally water-dependent uses.

**Glare** – excessive brightness that makes it difficult to see or that causes discomfort including the following:

- Direct Glare or glare from insufficiently shielded light sources or areas of excessive luminance within the field of view,
- Disability Glare or the effect of stray light in the eye whereby visibility and visual performance are reduced, and
- Discomfort Glare or glare that produces discomfort even if it does not interfere with visual performance or visibility.

**Great Pond** – any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres.

**Green Infrastructure** – an approach to water management that protects, restores, or mimics the natural water cycle. Examples are rain gardens, permeable pavements, green roofs, infiltration planters, trees and tree boxes, rainwater harvesting systems (rain barrels), bioswales as well as preservation and restoration of natural landscapes (such as forests, floodplains and wetlands).

**Gross Income** – the income from all sources of all household members who reside in a Workforce Housing Lot or Unit.

**Gross Leasable Lot Area** – for the purpose of the Mitchell Field Marine Business District only, the gross leasable lot area is the total of the area of the Mitchell Field Marine Business District excluding any road rights-of-way, utility easements, easements for public access, or land that will not be available for lease for development including the pier and the causeway leading to the pier.

**Ground Cover** – small plants, fallen leaves, needles, and twigs, and the partially decayed organic matter on the forest floor.

**Ground Water** – all waters found beneath the surface of the earth.

**Hazard tree** - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

**Hazardous Waste** – any material(s) included within the definition of hazardous waste contained in Chapter 850 of the Maine Department of Environmental Protection (DEP) Rules adopted pursuant to 38 MRSA Section 1319-O (1), as such rules may be amended from time to time.

**Height** – the vertical distance as measured from the mean original (prior to construction) grade at the downhill side of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances which have no floor area.

**Highest Annual Tide (HAT)** – the jurisdictional limit for all coastal wetlands. The HAT occurs in association with the new moon. It may be obtained from Maine Department of Environmental Protection (DEP) Highest Annual Tide Level chart.

**Historic or Archaeological Resources** – areas identified by the Maine Historic Preservation Commission or the National Park Service as having significant value as an historic or archaeological resources and any such areas identified in the Town’s Comprehensive Plan.

**Home Occupation** – an occupation or profession carried out for gain by a resident or occupant and conducted as an accessory use in or about such resident’s or occupant’s dwelling or accessory structure. All home occupations are subject to the provisions of Section 15.20 of the Shoreland Zoning Ordinance regardless of whether they are located within the Shoreland Zone.

**Homeowners/Landowners Association** – a community association that is organized in a development in which individual owners share common interests and responsibilities in protecting and/or maintaining facilities including but not limited to roads, community water or septic systems, open space, and recreation facilities. Homeowners/landowners associations include road associations.

**Household** – one (1) or more individuals living as a unit in which they share the use of a dwelling unit and its facilities.

**Hydric Soils** – a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.

**Impermeable Surface** – land area covered by structures and associated constructed facilities; land areas that have been or will be covered by a low-permeability material, such as asphalt or concrete; and land areas such as gravel roads and unpaved parking areas that have been or will be compacted through design or use to reduce their permeability. Common impermeable surfaces include roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam, or other surfaces that similarly impede the natural infiltration of water.

**Impermeable Surface Coverage** – the portion of a lot covered by impermeable surface.

**Increase in Nonconformity of a Structure** – any change in a structure or property that causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in impermeable surface coverage, or increase in height of a structure. Property changes or structure expansions that either meets the dimensional standard or that cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions that in-fill irregularly shaped structures.

**Individual Private Campsite** – an area of land that:

1. is not associated with a campground,
2. is developed for repeated camping by only one(1) group not to exceed ten (10) individuals and
3. involves site improvements that may include but not be limited to gravel pads, parking areas, fireplaces, or tent platforms. This does not include rudimentary campsites that are used on an occasional basis for camping by private individuals and which does not include clearing of vegetation.

**Industrial** – the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or the extraction of minerals. This shall in no case include the processing of fish or marine life. Processing of such goods shall be considered an acceptable commercial fish use.

**Institutional** – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Land Use Ordinances** – the Town's ordinances governing land use including the Basic Land Use Ordinance, the Shoreland Zoning Ordinance, the Subdivision Ordinance, the Town Road Ordinance, the Sign Ordinance, the Site Plan Review Ordinance, the State Junkyard Ordinance, the Solid Waste Ordinance, the Floodplain Management Ordinance, and other ordinances that may be adopted by the Town from time to time.

**Liquidation Harvesting** – the purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within five (5) years.

**Lot area** – the area of land enclosed within the boundary lines of a lot, minus land below maximum high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Low Impact Development (LID)** – an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing impermeable surfaces to treat stormwater as a resource rather than a waste product, and include bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.

**Maine DEP** – the Maine Department of Environmental Protection or any successor agency of Maine government.

**Marina** – a business establishment that has frontage on navigable water and, that provides, as its principal use, for hire moorings or docking facilities for boats, and that may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service

facilities. A marina does not include facilities that provide boat repair or construction as their primary or sole use and that may provide three (3) or less moorings as an accessory use.

**Citizen's Note:** *See definition of boat repair facility.*

**Marine-Related Business** – For the purposes of the Mitchell Field Marine Business District only, a marine-related business is a commercial or industrial activity that does not meet the definition of a functionally water-dependent use and that:

1. primarily catches or harvests fin fish, shellfish, or other material from the ocean;
2. builds boats;
3. operates marinas;
4. makes or provides goods or services to support recreation, commercial or recreational fishing or boating, boatbuilding or other marine-related uses;
5. stores, sells, raises, processes, and/or distributes materials that are caught or harvested from the ocean; or
6. that conducts research or educational activities related to the ocean or marine environments and/or marine plants and animals.

**Market Value** – the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with the prevailing general price levels.

**Maximum High Water Line (non-tidal waters)** – that line which is apparent from visible markings changes in the character of soils due to prolonged action of the water or changes in vegetation, and that distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of maximum high-water are considered part of the river or great pond.

**Mineral Exploration** – hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition. This does not include soil analysis for subsurface waste disposal.

**Mineral Extraction** – any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed, away from the extraction site. This is in no way meant to construe excavation for permitted uses or structures.

**Minimum Lot Width** – the closest distance between the side lot lines of a lot.

**Mobile Food Handlers** – any person selling or offering for sale, food products within the Town from a mobile unit, and where delivery is made at the time of sale.

**Mobile Unit** – a mobile, temporary or non-permanent vending unit that is capable of being moved from place to place.

**Multi-Unit Residential Use** – a residential dwelling containing three (3) or more dwelling units.

**Native** – indigenous to the local forests.

**Natural Areas and Natural Communities, Unique Natural Areas and Natural Communities** – areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the Town's comprehensive plan.

**Noise Control Plan** – a document that demonstrates how the noise impacts from a development will be minimized including:

1. A description of the proposed development including the identification of major sound sources, including tonal sound sources (rumbles, hums, whines, whistles, squeals), associated with the construction, operation, and maintenance of the proposed development and the proposed hours of operation;
2. The location of the sound sources shown on the site plan for the development;
3. Maps and descriptions of the land uses, zoning districts and existing sources of sound for the area potentially affected by sounds from the development. These maps and descriptions shall be adequate to describe the potentially affected area around the development and shall have a minimum coverage of one thousand (1,000) feet in all directions from the boundary of the Mitchell Field Marine Business District;
4. A description of day and night equivalent sound levels expected to be produced at the boundary of the Mitchell Field Marine Business District both as individual and combined sound sources.
5. Manufacturers' specifications for machinery that has potential to be heard beyond the boundary of the Mitchell Field Marine Business District.
6. A description of any proposed noise control measures including their location and expected performance.

**Noise Reducing Site Design** – a site design for development in the Mitchell Field Marine Business District that controls noise impacts through the design and placement of structures and other improvements on the site including, but not limited to, the use of buffers including walls and fences, and/or the location of service areas and loading docks, exhaust fans, machinery and equipment, overhead doors, areas where trucks back-up, and other noise generating area so they do not face the ocean or the nearest point on the boundary of the Mitchell Field Marine Business District.

**Nonconforming Condition** – nonconforming lot, structure or use that is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Nonconforming Lot** – a single lot(s) of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located, but which is allowed solely because it was in lawful existence and was recorded in the Cumberland County Registry of Deeds at the time that this Ordinance or subsequent amendments took effect.

**Nonconforming Structure** – a structure which does not meet any one (1) or more of the following dimensional requirements; setback, height, footprint or impermeable surface coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Nonconforming Use** – use of buildings, structures, premises, land or parts thereof that is not allowed in the district in which it is situated, but that is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Non-Native Invasive Species of Vegetation** – species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**Nuisance** – any violation of this ordinance.

**Odor Control Plan** – a document that demonstrates how the odor impacts from a development will be minimized including:

1. A description of the proposed development including the identification of major odor sources associated with the construction, operation, and maintenance of the proposed development and the proposed hours of operation;
2. The location of the odor sources shown on the site plan for the development;
3. Maps and descriptions of the land uses, zoning districts and existing sources of odors for the area potentially affected by odors from the development. These maps and descriptions shall be adequate to describe the potentially affected area around the development and shall have a minimum coverage of one thousand (1,000) feet in all directions from the boundary of the Mitchell Field Marine Business District;
4. A description of any proposed odor control measures including their location and expected performance.

**Offshore Island** – islands not connected to any other land by road and/or are accessible only by water or air at mean high tide.

**One-Unit Residential Use** – a residential dwelling containing one (1) dwelling unit.

**Open Fence** – a fence through which water, wind and sand can easily move, for example, a split rail.

**Open Space** – an area of land in a predominately undeveloped condition.

**Open Space, Common** – conservation and/or recreation land within a subdivision that is owned by the residents of the subdivision in common or by a homeowners association and that is protected from future development by a conservation easement or similar legally binding restriction.

**Open Space, Protected** – conservation and/or recreation land within a subdivision that is owned by the Town, state or federal agency, conservation organization or land trust, or private owner and that is protected from future development by a conservation easement or similar legally binding restriction.

**Organic Fertilizer** – a product that is derived from the remains or by products of animals or vegetables which contain the essential nutrients for plant growth.

**Outlet Stream** – any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**Perennial Stream** – a free-flowing body of water which contains water at all times except during extreme drought.

**Permanent Marker** – a marker that, if left undisturbed, will remain in place for a period of at least twenty-five (25) years.

**Person** – an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having joint or common interest, or other legal entity.

**Piers, docks, wharves, bridges and other structures and uses extending over or beyond the maximum high-water line or within a wetland.**

**Temporary** – structures that remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

**Permanent** – structures that remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

**Pond** – any inland body of water that in a natural state has a surface area less than ten (10) acres, or a body of water artificially formed or increased with a surface area less than thirty (30) acres excluding farm ponds, fire ponds, stormwater retention ponds, or landscape ponds and similar small man-made areas.



**Primary Conservation Area** – land within a subdivision that is not suitable for development or intensive use due to the presence of natural resource constraints. This includes coastal and freshwater wetlands, significant vernal pools, undeveloped land within the 100-year floodplain, land within one hundred (100) feet of the upland edge of a freshwater wetland, and contiguous areas of one (1) acre or more with a slope of more than twenty-five percent (25%).

**Principal Structure** – a structure other than one that is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

**Principal Use** – a use other than one (1) that is wholly incidental or accessory to another use on the same lot.

**Public Facility** – any facility, including but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Qualified Buyers** – persons who meet the income requirements of a very low, low or moderate income household and who purchase Workforce Housing Lots or Units.

**Recent Flood Plain Soils** – the following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondava
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

**Recreational Facility** – a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

**Recreational Vehicle** – a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one (1) or more persons, and which may include a pick-up camper, travel, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**Replacement Subsurface Wastewater Disposal System** – a system intended to replace:

1. an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
2. any existing overboard wastewater discharge.

**Residential** – a land use that is predominated by a dwelling or dwelling units.

**Re-Subdivision** – the division of an existing subdivision previously approved by the Town or any change of lot size therein or the relocation of any road or lot in a subdivision previously approved by the Town.

**Riprap** – rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**River** – a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

**Road** – any one of the following vehicular access ways:

**Arterial Road** – a road that is functionally classified by the Maine Department of Transportation (DOT) as an arterial, with controlled access, traffic signals at important intersections and/or stop signs on side roads.

**Collector Road** – a road that is functionally classified as a collector by the Maine Department of Transportation (DOT), and that collects traffic from local roads and connects with arterial roads.

**Local Road** – a public road or private road, other than arterial or collector roads.

**Private Road** – a road that is privately owned, built, and maintained, but not including a driveway.

***Citizen's Note:** The town may not, under Maine law, spend public funds to construct, repair, maintain or plow privately owned roads.*

**Public Road** – a public easement or town way.

**Public Easement** – an easement held by the municipality for purposes of public access to land or water not otherwise connected to a public way, and includes the rights enjoyed by the public with respect to private ways created by statute prior to July 29, 1976, pursuant to 23 M.R.S. § 3012(2).

**Town Way** – an area of land designated and held by a municipality for passage and use of the general public by motor vehicle; all town or county ways not discontinued or abandoned before July 29, 1976; and all state or state aid highways, or both, which are classified town ways as of July 1, 1982, or thereafter, pursuant to 23 M.R.S. § 53.

**Road Association** – see homeowners/landowners association.

**Salt Marsh** – areas along coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

**Salt Meadow** – areas which support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is inundated by tidal water during the highest annual tide (HAT) as identified in tide tables by the National Ocean Service. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

**Sapling** – a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**Secondary Conservation Area** – land within a subdivision that has natural resource, open space, scenic, or cultural value but that is potentially developable. These areas should be considered for protection in the design and layout of the subdivision including being part of the common or protected open space in a Flexible Lot Size subdivision. These areas include land that has been identified for protection or special treatment in the comprehensive plan, open space plan or other official Town document.

**Seedling** – a young tree that is less than four and one half (4.5) feet in height above ground level.

**Service Drop** – any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
  - a) the placement of wires and/or installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way: and
  - b) the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telecommunication service
  - a) the extension, regardless of length, will be made by the installation of telecommunication wires and cables to existing utility poles, or
  - b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback** –

**Property, Side, Rear or Lot Line Setback** – the minimum horizontal distance from a lot line or edge of the traveled way, whichever is more restrictive, to the nearest part of a structure.

**Road Setback** – the minimum horizontal distance from the edge of the traveled way to the nearest part of a structure.

**Water Body, Shorefront or Wetland Setback** – the nearest horizontal distance from the maximum high-water line of a water body, tributary stream, or upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area.

**Shoreland Zone** – the land area located within two hundred fifty (250) feet, horizontal distance, of the maximum high water line of any great pond or salt water body; within two hundred fifty (250) feet, horizontal distance, of the highest annual tidal (HAT) elevation of any coastal wetland, within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, or the upland edge of a freshwater wetland of ten (10) or more contiguous acres, or the upland edge of a freshwater wetland of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any tributary stream, such that in a natural state, the combined surface area is in excess of ten (10) acres; and within seventy five (75) feet horizontal distance of the maximum high water line of a stream. The Shoreland Zone also includes the portion of the Mitchell Field Marine Business District as shown on the Official Shoreland Zoning Map that is more than two hundred fifty (250) feet, horizontal distance, from the HAT of the coastal wetland.

**Slash** – (only for activities not involving timber harvesting) the residue, e.g., treetops and branches, left on the ground after a timber harvest.

**Sludge** – a solid, semisolid, or liquid residue that results after sewage (human and other waste from households and industries) is treated at a sewage plant.

**Sound Insulated Structure** – a building, structure, or equipment enclosure that limits the exterior sound level of machinery, equipment or activities located therein to not more than fifty five (55) dBA based on a one-minute equivalent sound level  $L_{Aeq\ 1-minute}$  when measured at a distance of ten (10) feet from the exterior walls or roof of the structure or enclosure.

**Special Waste** – any material(s) included within the definition of special waste contained in Chapter 400, Section 1, subsection (Nnn) of the Maine Department of Environmental Protection (DEP) Rules, adopted pursuant to 38 M.R.S. Sections 341-D, 1304, 1310-N(9) and 1301 et Seq., as such rules may be amended from time to time.

**Stream** – a free-flowing body of water from the outlet of great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet that channel is also a stream.

**Storm-Damaged Tree** – a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

**Stormwater** – the part of precipitation, including runoff from rain or melting snow, that flows across the surface as sheet flow, shallow concentrated flow, or in drainage ways.

**Structure** – anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of tree houses with no roof, not to exceed twenty-five (25) square feet; picnic tables; lawn chairs; flag poles; temporary party tents not to exceed three (3) days; ninety-six (96) square feet camping tents that are accessory to a legally existing house and that are erected on the property not more than ten (10) days per calendar year; dog houses not to exceed ten (10) square feet; swimming pools not to exceed ten (10) square feet; fences and poles, wiring, and other equipment normally associated with service drops as well as guying and guy anchors. The term includes, but is not limited to, structures temporarily or permanently located, such as decks, satellite dishes, portable prefab structures, terraces, patios and other construction involving impermeable and/or non-vegetated surfaces. A subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; a geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8 are not structures.

**Subdivision** – the division of a tract or parcel of land into three (3) or more lots within any five (5) year period in accordance with 30-A M.R.S.A. §4401[4] and as that Subsection may be amended from time to time.

**Major subdivision** – is the division of a tract or parcel of land into five (5) or more lots within any five (5) year period or any subdivision that triggers State Site Location of Development review.

**Minor subdivision** – is the division of a tract or parcel of land into four (4) or fewer lots within any five (5) year period and which does not trigger State Site Location of Development review.

**Substantial/Substantial Start of/Construction** – substantial construction of an individual structure means completion of the foundation and capping over for water tightness. Where there will be no foundation or no structure is proposed, substantial start means completion of at least thirty percent (30%) of the value of the work for which a building or other permit has been secured. In the case of a subdivision, substantial start means the completion of no less than thirty percent (30%) of the costs of proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased, the cost of construction of buildings on those lots shall not be included. When the construction involves use of a slab as the foundation, the slab must be completed within one (1) year of the date on which the permit or approval was granted and a permanent roof completed within two (2) years of the date on which the permit or approval was granted.

**Subsurface Sewage Disposal System** – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. § 414, as may be amended from time to time, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**Sustained Slope** – a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal waters** – all waters affected by tidal action during the highest annual tide (HAT).

**Timber Harvesting** – the cutting and removal of timber for the primary purpose of selling or processing forest products. Timber harvesting does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees on a lot that has less than two (2) acres shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15.15, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting* of the Shoreland Zoning Ordinance or Section 11.15 *Vegetative Buffers* of the Basic Land Use Ordinance.

**Tree** – a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary Stream** – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term “stream” as defined elsewhere in this ordinance and applies only to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**Two-Acre Lot Size Subdivision** – a subdivision approved in accordance with Section 9.4.1 of the Subdivision Ordinance in which the size of all lots is a minimum of eighty thousand (80,000) square feet.

**Two-Unit Residential Use** – a residential dwelling containing two (2) dwelling units.

**Upland Edge of a Wetland** – the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant

vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

**Vegetation** – all live trees, shrubs, other plants, and ground cover including without limitation, trees both over and under four (4) inches in diameter, measured at four and a half (4.5) feet above ground level.

**Vernal Pool** – a natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer. Vernal pools have no permanent inlet or outlet and no viable populations of predatory fish. A vernal pool may provide the primary breeding habitat for wood frogs (*Rana sylvatica*), spotted salamanders (*Ambystoma maculatum*), blue-spotted salamanders (*Ambystoma laterale*), and fairy shrimp as well as valuable habitat for other plants and wildlife, including several rare, threatened, and endangered species. A vernal pool intentionally created for the purposes of compensatory mitigation is included in this definition.

**Vernal Pool, Significant** – a vernal pool that is determined to be significant under the standards of the Maine Natural Resources Protection Act based on the number and type of pool-breeding amphibian egg masses in a pool, or the presence of fairy shrimp (*Eubbranchipus*spp.) or use by threatened or endangered species.

**Volume of a Structure** – the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water body** – any river, stream, great pond, tidal or open salt water area.

**Water Crossing** – any project extending from one bank to the opposite bank of a river, stream, or tributary stream or wetland, whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintained work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Wastewater** – water carrying wastes from homes, businesses, and industries that is a mixture of water and other liquids and dissolved or suspended solids, or excess irrigation water that is runoff to adjacent land. Wastewater includes septage as well as "gray water."

**Wetland** –

**Coastal Wetland** – all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; any salt swamp, marsh, bog, beach, flat, meadow or other contiguous low land that is subject to

tidal action during the highest annual tide (HAT) level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

**Forested Wetland** – a fresh water wetland dominated by woody vegetation that is six (6) meters (approximately twenty (20) feet) or taller.

**Fresh Water Wetlands** – freshwater swamps, marshes, bogs and similar areas, other than forested wetlands which are:

Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

The following three (3) criteria shall be met for classification as a freshwater wetland:

1. a predominance of hydric soils,
2. a prevalence of hydrophytic vegetation typically adapted for life in saturated soils, and
3. anaerobic conditions in the soil usually created by inundation or saturation by surface or groundwater for at least one (1) week of the growing season.

The absence of any one (1) of these three (3) criteria shall preclude classification as freshwater wetland.

Moderate or high value wetlands means wetlands that are defined as moderate or high value for wildlife as defined by the Maine Department of Inland Fisheries and Wildlife or as determined by the Town.

***Citizen's Note:** This Ordinance defines fresh water wetlands in conformance with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, an Interagency Cooperative Publication of the Fish and Wildlife Service, Environmental Protection Agency, Department of the Army, and Soil Conservation Service, to which all applicants are referred for additional information.*

**Wildlife Habitat, Significant Wildlife Habitat** – areas identified by a government agency such as the Maine Department of Inland Fisheries and Wildlife (IFW) as having significant value as habitat for animals and any areas identified in the Town's comprehensive plan.

**Woody Vegetation** – live trees or woody, non-herbaceous shrubs.



**Workforce Housing** – housing designed with the express intent of providing owner-occupied decent, safe, and sanitary living accommodations that are affordable to lower income households and moderate income households, in accordance with the following definitions:

**Very low income household** – a household with a gross income less than or equal to fifty percent (50%) of the Brunswick Labor Market Area.

**Low income household** – a household with a gross income over fifty percent (50%), but less than or equal to eighty percent (80%), of the Brunswick Labor Market Area.

**Moderate income household** – a household with a gross income more than eighty percent (80%), but less than or equal to one hundred twenty percent (120%), of the Brunswick Labor Market Area.

**Workforce Housing Covenant** – an agreement for the development of a Workforce Housing Lot or Workforce Housing Unit which legally and permanently restricts the ownership and use of such Workforce Housing Lot or Workforce Housing Unit. Such agreement shall be between the Town and the applicant and shall be recorded in the Cumberland County Registry of Deeds prior to the issuance of a building permit, if for a single Workforce Housing Lot or Unit, or concurrently with the recording of any approved subdivision plan that includes a Workforce Housing Lot or Unit, if for a subdivision.

**Workforce Housing Fund** – a separate dedicated reserve account established by Town Meeting to be managed at the direction of the Board of Selectmen (BOS) for the receipt and management, in accordance with the provisions of the Basic Land Use Ordinance (BLUO) on Workforce Housing, of the following: gifts of land, housing, and other property useful in the administration of Section 11.18 of the Basic Land Use Ordinance, as may be amended from time to time; grants; and monetary donations. The Workforce Housing Fund shall be utilized solely for the construction, acquisition, and maintenance of Workforce Housing as defined herein and for the cost of administering workforce housing programs consistent with the Workforce Housing provisions of the Basic Land Use Ordinance, as may be amended from time to time.

**Workforce Housing Lot** – a residential lot of land for owner-occupied single family residential use that has been permanently protected for long term affordability by means of a covenant or other mechanism that includes an Equity Recapture formula which is recorded in the Cumberland County Registry of Deeds.

**Workforce Housing Unit** – a residential structure on a lot of land for owner-occupied single family residential use that has been permanently protected for long term affordability by means of a covenant or other mechanism that includes an Equity Recapture formula which is recorded in the Cumberland County Registry of Deeds.

**Yard Sale** – the sale of goods from a residential premises, whether advertised in local media, by signs, or otherwise, as a yard sale, barn sale, garage sale, household sale, moving sale, or other

sale, whether accomplished by direct sale or auction; or the sale, at the seller's place of residence, of all or part of the household goods, whether accomplished by direct sale or auction; or sales conducted by civic groups, school groups, church groups, charitable or fraternal organizations and other non-profit organizations if such sale is held on the organization's premises.